

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

MICHAEL A. LABREC,

Plaintiff,

v.

Case No. 16-cv-31-pp

KAREN BUTLER,

Defendant.

**DECISION AND ORDER GRANTING THE PLAINTIFF'S MOTIONS FOR
EXTENSION OF TIME TO PAY HIS INITIAL PARTIAL FILING FEE
(DKT. NO. 8) AND TO PAY HIS INITIAL PARTIAL FILING FEE WITH
FUNDS FROM HIS RELEASE ACCOUNT (DKT. NO. 9)**

Michael LaBrec, a Wisconsin state prisoner, filed a *pro se* case under 42 U.S.C. § 1983, alleging his civil rights were violated. On January 14, 2016, the court entered an order requiring the plaintiff to pay \$21.81 as an initial partial filing fee. Dkt. No. 5. On February 1, 2016, the plaintiff filed two motions. The first requested that the court extend the deadline for him to pay the initial partial filing fee, because he does not get paid again until after the fee is due. Dkt. No. 8. The second asked that he be allowed to pay the fee with funds from his release account. Dkt. No. 9.

The Prison Litigation Reform Act (PLRA) requires the court to collect filing fees from a “prisoner’s account.” 28 U.S.C. § 1915(b). The term “prisoner’s account” encompasses both a prisoner’s release account and general account. Spence v. McCaughtry, 46 F. Supp. 2d 861, 862 (E.D. Wis. 1999). However,

“given the purpose of the release account to provide funds to the prisoner upon his or her release from incarceration, the Court does not deem it prudent to routinely focus on the release account as the initial source of funds to satisfy the filing fee payment requirements of the PLRA.” Smith v. Huibregtse, 151 F. Supp. 2d 1040, 1042 (E.D. Wis. 2001). Nevertheless, upon request, a court may allow a plaintiff to pay a filing fee, or a portion thereof, out of his release account. Doty v. Doyle, 182 F. Supp. 2d 750, 752 (E.D. Wis. 2002).

The plaintiff’s desire to pay his initial partial filing fee with funds from his release account is clear, and he represents that his release account contains adequate funds to cover the fee. Accordingly, the court will grant the plaintiff’s motion to pay the fee with funds in his release account. The court also will grant the plaintiff’s motion for an extension of time to pay the fee, to allow the warden at Wisconsin Resource Center adequate time to submit the fee to the clerk of court.

The court **ORDERS** that the plaintiff’s motion for an extension of time to pay his initial partial filing fee (Dkt. No. 8) is **GRANTED**.

The court also **ORDERS** that the plaintiff’s motion to pay his initial partial filing fee with funds from his release account (Dkt. No. 9) is **GRANTED**.

The court further **ORDERS** that the warden at Wisconsin Resource Center shall withdraw \$21.81 from the plaintiff’s release account and forward that sum to the clerk of court as payment for the initial partial filing fee in this action. The warden shall make such payment by **March 4, 2016**.

The court will mail a copy of this order to the warden of Wisconsin Resource Center.

Dated in Milwaukee, Wisconsin this 4th day of February, 2016.

BY THE COURT:

A handwritten signature in black ink, consisting of a large, stylized loop followed by a horizontal line extending to the right.

HON. PAMELA PEPPER
United States District Judge